



Appeal Decision

Site visit made on 6 April 2023

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2023

Appeal Ref: APP/P3800/W/21/3266534

Kilmarnock Farm, Charlwood Road, Ifield RH11 0JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by PJ Brown Construction Ltd against the decision of West Sussex County Council.
 - The application Ref WSCC/081/19, dated 20 December 2019, was refused by notice dated 9 July 2020.
 - The development proposed is Temporary Concrete Crushing and Soil Recycling Facility.
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Decision

1. The appeal is dismissed.

Procedural Matters and Planning Policy

2. The revised National Planning Policy Framework (2021) (the Framework) was published on 20 July 2021. This includes changes to policies in respect of flood risk and subsequent associated guidance in the Planning Practice Guidance (the PPG). The Council and the appellant have been given the opportunity to comment upon the implications of these matters, which is reflected in my setting out of the main issues and reasoning below.
3. The appeal site is within the Sussex North Water Supply Zone (the SNWSZ) in which Natural England (NE) has updated its advice in relation to the effects of development activities including water abstraction upon the integrity of the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar Site (the Arun Valley) as Habitats sites. I have given the Council and the Appellant the opportunity to comment upon this matter, which is reflected in my setting out of the main issues and my reasoning below.
4. The Council's first reason for refusal in its decision notice alleges the proposal would not be on 'suitable' previously developed land or well-located in accordance with the development plan. As the appeal site is not an allocated site in Policy W10 of the West Sussex Waste Local Plan (2014) (the WLP), Policy W4 of the WLP states that if not proposed on an active landfill site or mineral working, proposals will be permitted, provided they are located in accordance with Policy W3 of the WLP.
5. The Council accepted the Appellant had demonstrated the proposal cannot be delivered on permitted or allocated sites as required by W3(a)(i), and it falls within an 'Area of Search' under W3(a)(ii). Having been deemed to have met Policy W3(a), proposals must meet W3(b). This includes requirements that it

must be (i) on suitable previously developed land outside built-up areas, or, (iv) well-related to the Lorry Route Network (LRN). The Council accepts that on-balance the proposal constitutes previously developed land for the purposes of W3(b)(i), and I see no reason to disagree.

6. However, the Council's objection in respect of Policy W3(b) is that it does not consider the site 'suitable' given its objections in the decision notice in respect of the countryside, noise and disturbance, the location on the highway network and highway safety. My findings in respect of these main issues will determine whether the appeal site can be considered 'suitable'.

Main Issues

7. The main issues are:

- the effect of the proposed development upon Habitats sites;
- whether or not the proposed development is compliant with policies in respect of flood risk;
- the effect of the proposed development upon the character and appearance of the countryside;
- whether or not the proposed development would ensure satisfactory conditions for neighbouring and local receptors with particular reference to noise and dust;
- the effect of the proposed development upon any future expansion of Gatwick Airport; and,
- whether or not the proposed development is in a suitable location on the highway network and can be accessed safely.

Reasons

Habitats sites

8. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) require that where a plan or project is likely to result in a significant effect on a European site (Habitats site) in this case the Arun Valley, a competent authority is required to make an Appropriate Assessment of the implications of that plan or project upon the integrity of the European site in view of its conservation objectives.
9. The Arun Valley includes washlands, floodplains, neutral wet grasslands and wet meadows dissected by a network of ditches, marshes and seasonal pools. These habitats support internationally and nationally important populations of seven wetland invertebrate species including the Little Whirlpool Ramshorn snail, rare plant species including various types of Milfoils and Dropworts, the Bewick's Swan, and important waterfowl assemblages.
10. The conservation objectives of the Arun Valley are to maintain or restore the integrity of the sites by maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats of the qualifying features and species, the population of the qualifying features and species, and the distribution of the qualifying features and species within the Arun Valley.

11. NE advice is that within the SNWSZ it cannot be concluded that existing groundwater abstraction is not having an adverse impact on the integrity of the Arun Valley through reduced water levels¹. Based upon monitoring, it is understood the existing condition of the sites is 'Unfavourable'. Therefore, Likely Significant Effects (LSEs) from many types of new development cannot be ruled out. NE considers that further development with a requirement for additional abstraction in the SNWSZ is likely to have an adverse impact upon the Arun Valley.
12. The proposal would be likely to use a public water supply for purposes including operating a wheel wash, suppressing any dust emissions and the provision staff facilities. The plans show swales, an interceptor, and detention ponds with reed beds, as part of water treatment. Therefore, alone and in combination with other development, the proposal would be likely to have a water demand within the SNWSZ, resulting in LSEs on the Arun Valley.
13. NE is of the view the appeal proposal would have an impact on the Arun Valley sites. It is working with partner organisations to develop and implement Water Neutrality (WN), to ensure future developments can proceed without further adversely affecting Habitats sites. WN requires that for every new development requiring a public water supply from the SNWSZ, total water use in the SNWSZ after the development must be equal to or less than the total water-use before the new development. The amount of water used needs to be calculated and it needs to be demonstrated how the appeal proposal can achieve no net increase in water consumption.
14. Presently no strategic mitigation scheme is in place and an applicant is required to demonstrate how they intend to secure WN with their own mitigation strategy. There are existing uses on the appeal site to be removed, with some reliance upon mains water. However, their planning status and their water consumption is not agreed between the Council and the appellant. The appellant also acknowledges there might be a need to submit applications to the relevant planning authority, to reach agreement upon the water consumption baseline. Therefore, the appellant has advised they are not presently able to agree a baseline or demonstrate WN.
15. In consequence, the appeal proposal does not have robust calculations and a deliverable mitigation scheme in place to ensure it is water neutral. Therefore, I can only conclude that it is not demonstrated the proposal makes sufficient provision to mitigate LSEs and thus maintain or restore the integrity of the Arun Valley Habitats sites.
16. Applying the precautionary principle, in the absence of appropriate mitigation being secured, the appeal scheme would have LSEs upon the integrity of the Arun Valley Habitats sites, and it would fail to adhere to their conservation objectives. Imperative reasons of overriding public interest do not exist, it has not been put to me there are no alternative solutions, and no compensatory measures will be provided. Therefore, Regulation 63(5) of the Regulations precludes the proposal from proceeding.
17. In-light of the foregoing, the proposed development conflicts with Policy W14 of the WLP and Policy 31 of the Horsham District Policy Framework (2015) (the

¹ Natural England's Advice Note regarding Water Neutrality within the Sussex North Water Supply Zone: February 2022 V2.

HDPF). Amongst other things, these require where development is anticipated to have direct or indirect adverse impacts on sites or features of biodiversity importance, a favourable conservation status is maintained, and appropriate mitigation measures provided. It also conflicts with paragraph 180a) of the Framework which states that if significant harm to biodiversity cannot be avoided or adequately mitigated, then planning permission should be refused.

Flood Risk

18. Paragraphs 159 and 161 – 163 of the Framework seek to direct development away from areas at risk of flooding from all sources, and where development is necessary in such areas it should be made safe for its lifetime without increasing the risk of flooding elsewhere. The Framework applies the sequential approach to avoid where possible risk of flooding to people and property now and in the future, and development should not be permitted if there are reasonably available sites appropriate for the development in areas with a lower risk of flooding.
19. A small part of the north of the appeal site that is currently occupied by some informal grassland surrounding a mobile home is shown on the surface water maps as being at a high risk of surface water flooding. From what I saw, land drains from the north along a thin corridor before running through this part of the appeal site and then outside the boundary of the existing hardstanding.
20. The submitted drainage layout shows that surface water from the site would discharge into new detention ponds via new swales or French drains, a channel and interceptor. The layout indicates the area at a high-risk of flooding would be occupied by part of a landscaped strip integrating an acoustic barrier and an approximately 3m wide swale inside that barrier, along a broadly similar alignment to the existing surface water run-off pathway.
21. Despite part of the site being within an area at high risk of flooding I have not been provided with a sequential test, nor has it been argued a sequential test would not be required. The proposed layout would appear to suggest it has a potential to increase the risk of flooding to property. For an acoustic fence to be effective it should have few if any gaps, and for reasons I go on to discuss it is an important and significant element of the appeal scheme. The layout suggests it would result in the risk of flooding around the barrier and could result in increased flooding of a modest part of the adjacent field. While this might only be for a temporary period of five years, the objective of avoiding risk of flooding to people and property at present, is not demonstrated.
22. Both main parties also suggest the current drainage design might not take into account the most up to date flood risk guidance, or changes to climate change allowances required to be considered as part of assessment and design of a scheme. The appellant's view is that there might be significant updates and amendments necessary for the scheme to comply with the policies of the Framework and the guidance in the PPG. Having regard to the Wheatcroft principles², I cannot be certain whether or not any necessary changes would result in significant and material amendments to such a degree, that the appeal scheme might be significantly changed.

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37].

23. Therefore, based upon the evidence the before me, I cannot conclude the appeal scheme is compliant with policies in respect of flood risk, in conflict with the aims of paragraphs 159 and 161 – 163 the Framework, the relevant objectives of which I have set out above.

Character and appearance

24. The appeal site comprises approximately 0.66 hectares of land on the eastern side of the Kilmarnock Farm business complex. Although designated as countryside much of the site comprises previously developed land that was occupied by made ground in use for parking, commercial and equine buildings and mobile homes. To the east the appeal site includes part of a grass paddock, some stables, a field gate, and mature hedgerow on Charlwood Road.
25. The appeal site is viewed in the context of the variety of neighbouring buildings and premises on the farm to its west and experienced in the backdrop of aircraft from Gatwick airport. However, the site and farm surrounds are set within the gently undulating countryside of the Northern Vales and Upper Mole Farmlands landscape character areas. It is typified by fields punctuated by clusters of buildings in varying uses, with a sense of wider containment due to the sizeable mature forested areas, so the surrounds have predominantly rural character. As a whole, the appeal site is in keeping with and makes a neutral contribution to the character and appearance of the area.
26. The proposal would enclose and develop a significant area of paddock, extending built development and enclosing it with an approximately 4.5m acoustic barrier. The hardstanding and structures would necessitate vegetation removal including a number of trees of a range of maturity to facilitate the approximately 37m wide bell-mouth access. The new development, plant and vehicles, processing of materials, and stockpiles, would result in a significant incursion of new operational development in the countryside, with a marked increase in the amount and intensity of development at the site.
27. Notwithstanding the acoustic barrier, landscaping and layout, some parts of the plant, machinery and activity, would be visible or perceptible from surrounding land. The significantly widened access would be clearly visible from Charlwood Road. While the proposal might have a limited effect upon key landscape features and maintain a sizeable gap to the wood, there would be harmful effects to the character and appearance of the countryside for a temporary period. In consequence, it cannot be considered sympathetic to its location.
28. The appellant's Landscape & Visual Impact Assessment (LVIA) concludes that during construction effects would likely to be high adverse and once operational low adverse from Charlwood Road and low adverse descending to neutral from the footpath as landscaping matures. However, due to its inherent rural and verdant character I do not agree the landscape value or sensitivity is 'low', or that it would only be motorists viewing the site from the highway. Based upon what I saw, I consider it of moderate value and given the variety of road users and proximity to the public rights of way network, I do not consider it would only be motorists observing the site from Charlwood Road. Based upon the indicative landscaping, it is not demonstrated there would be sufficient time or scope for planting proposals to reduce the landscape effects to neutral.
29. A sympathetic external treatment of the acoustic barrier and a detailed landscaping scheme with mature landscape elements could limit the effects of

the proposal. The access area could be enhanced by landscaping but having regard to the temporary duration of the operation of five years as proposed and the Council's planning condition in this regard, due to the need to maintain sufficient visibility, this would be of limited effect.

30. A condition securing the reinstatement of the site to require it be restored to a suitable form, as set out in the Council's suggested planning conditions, would mean the harm is temporary, and it is possible there might be some minor longer-term benefits secured. However, even allowing for what could be achieved with suitably worded planning conditions, these could not fully overcome the harmful effects during construction and operation. The harm would be visible from surrounding fields, limited points on Charlwood Road around the access, and for a significant length of the footpath east of the site.
31. It is not demonstrated the proposal is essential to its countryside location or falls within one of the categories of development considered to be acceptable in the countryside under Policy 26 of the HDPF such as directly for the disposal of waste. In-light of my findings in respect of Habitats sites, flood risk, and this main issue, I cannot regard it to be enabling the sustainable development of rural areas. Therefore, based upon the evidence before me, it would be considered inappropriate to a countryside location under Policy 26.
32. For the reasons set out above, the proposed development would be harmful to the character and appearance of the countryside. These effects would be temporary, but nevertheless it would conflict with the aims of Policies W11 and W12 of the WLP and Policies 25 and 26 of the HDPF. In combination and amongst other things, these require that development is of a high-quality design of an appropriate scale and form, considering the need to integrate with adjoining land uses, maintaining and reinforcing local character, not resulting in a significant increase in the overall level of activity and not having an unacceptable impact upon the character and distinctiveness of the area.
33. It would also conflict with paragraphs 130b) and c) and 174b) of the Framework which expect development to recognise the intrinsic character and beauty of the countryside, integrate effective landscaping, and be sympathetic to the surrounding landscape setting.
34. While not cited in the decision notice under reason for refusal no. 2, the appellant has referenced Policy 33 of the HDPF and Policy W19 of the WLP. In respect of this main issue, I do not agree with the appellant's view the proposal is compliant with Policy 33 given its requirement that development is sympathetic to the distinctive characteristics of its surrounds. Policy W19 of the WLP is primarily in relation to the effects of emissions, which I have considered under the main issue below.

Dust and noise

35. The proposal would typically necessitate the use of plant and machinery such as a mobile screener, a crusher, an excavator and a loading shovel, as well as wheel washing, reversing alarms, the delivery of waste and export of processed materials between 08:00 to 17:00hrs Monday to Friday and 08:00 to 13:00 Saturdays. Existing mobile properties would be removed from the appeal site. Receptors listed in the appellant's Noise Assessment (NA) include businesses on the farm, Kilmarnock farmhouse approximately 15m from the site, Ifield Court Lodge approximately 130m away, Little Foxes Hotel approximately 160m

away, an outreach centre approximately 200m away, and footpath 1511 approximately 75m to the east.

36. From what I saw and the evidence before me, the noise environment was influenced by businesses at farm and Charlwood Road, with frequent elevated peaks when aircraft were passing from the airport a short distance away. The NA concludes that subject to the imposition of suitably worded planning conditions to secure mitigation measures such as an up to 4.5m acoustic barrier, the proposed development would be in the order of the prevailing background noise levels at the closest properties.
37. However, the evidence does not address whether the NA included or should have included a correction penalty for impulsive or tonal noise, given there is no reference to this having been applied in the NA. The evidence also suggests that the NA has not considered the effects upon a previously approved dwelling (the Plumber's Block) constructed under a prior approval. The plans before me suggest this is located very close to the site boundary. However, the details of its boundaries, construction and layout are not confirmed.
38. Based upon the NA, with mitigation, the noise levels would be between approximately 2 dB(A) to 16 dB(A) below the background levels at the assessed receptors. However, it is not clear whether any penalty factor might change noise levels experienced. The appellant has argued that the Plumber's Block dwelling and the farmhouse would revert from residential to commercial uses. However, it is not explained if they are now permanently vacated, whether the changes require express consents or how any consents or changes of use would be secured. For these reasons, even having regard to measures that could be imposed by suitably worded planning conditions, I have significant doubts as to whether the proposal could secure satisfactory living conditions at the farmhouse and the Plumber's Block.
39. The Council refers to other businesses and uses in and around Kilmarnock Farm. These include businesses such as automotive garages, scaffolders, and Class E uses, which are likely to be less sensitive to noise than, for example, residential uses and overnight accommodation. Having regard to the existing noise environment at the farm complex, the nature of those businesses, and the substantive assessment in the NA, this is suggestive that even allowing for any penalty factor, the resultant noise would still allow those businesses to operate satisfactorily.
40. The equine uses such as stables and paddocks in the vicinity of the site are under the control of the landowner of the appeal site and farm. Those uses on the site are proposed to cease if the appeal were to be allowed. However, there is no substantive evidence provided by the Council that would lead me to believe equine uses have the sensitivity to noise as residential uses, or even if it were necessary, the landowner could not and would move the animals to a more suitable location during the hours of use if the appeal facility were deemed to be of detriment to welfare. Moreover, the evidence suggests some of the stables have been permitted for use for self-storage, so it is not intended for the animals to be housed in them. Therefore, the evidence before me suggests the proposal would not harmfully affect the equine uses.
41. The NA does specifically refer to a finding upon any effects to the enjoyment of footpath 1511 east of the site. Having regard to the noise levels anticipated at P1 and P5 in particular, and the levels set out on the noise contour plans, if a

- penalty factor for impulsive or tonal noise were integrated into the calculation, it appears likely that with mitigation, noise at the footpath would be above the background noise levels. Given the uncertainty surrounding the effect of any correction factor for impulsive or tonal noise, I cannot be certain the noise would not significantly affect the enjoyment of the footpath.
42. The Ifield Village Conservation Area Advisory Committee has referred to harmful effects upon a day centre for people with learning difficulties. This facility (receptor P5 in the NA) is approximately 200m from the site. The NA suggests it would experience noise levels of 3 dB(A) below background without any penalty factor. Under section 149 of the Equality Act 2010 (the Act), the decision maker must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and to foster good relations between those who share protected characteristics and those who do not.
43. I am mindful to have regard to the need to minimise the disadvantages suffered by persons who share a relevant protected. Based upon the limited evidence before me, the users of the centre appear to have disabilities, so have a protected characteristic. Neither the Council nor the appellant advance substantive evidence explaining how this is assessed. Were I minded to allow this appeal, I would have needed sufficient certainty as to any effects upon the users of the centre. However, as I am dismissing this appeal for other reasons, and my decision upon it will not result in any effects upon the outreach centre users, I have not considered this matter in detail.
44. Interested party representations have been received in relation other wider properties and uses. The NA suggests noise levels from the proposal in their general vicinity would be 12 dB(A) to 16 dB(A) below background levels. This suggests that even allowing for any correction factor, the proposal would not result in harmful conditions at those properties or prevent them operating, and there is no substantive evidence advanced to the contrary.
45. While the Council refers to the effects of dust upon nearby receptors, it has provided little further substantive justification to demonstrate the proposal would result in harmful effects. The Air Quality Assessment (AQA) considers the effects from the operation of the site and HGV movements. While there would be a risk of dust impacts within 20m of the appeal site which may affect the Plumber's Block and the farmhouse, the wind rose shows that there is proportionally little wind blowing in these directions and the prevailing wind is from the west and south westerly directions.
46. The appellant has detailed various dust suppression measures and working practice options, a Construction Management Plan, and monitoring. While I note the concerns, there is no substantive evidence advanced that would lead me to doubt the findings of the AQA and that the proposed development could be satisfactorily operated without harmful effects upon neighbouring occupiers. Moreover, in accordance with paragraph 188 of the Framework, I have no reason to conclude the proposal would and could not be operated in accordance with the Environmental Permitting regime nor that it would not be regulated and enforced if necessary.
47. Nevertheless, for the reasons set out above, I cannot be certain the proposed development would provide satisfactory living conditions at two nearby residential properties and that it would not adversely affect the enjoyment of a public right of way. Therefore, it would conflict with Policy W19 of the WLP and

Policy 33 of the HDPF. Amongst other things these require that development is suitably controlled and avoids unacceptable harm to the amenity or health of nearby occupiers of nearby property and land. It would also conflict with paragraphs 130f) and 185a) of the Framework, which have similar objectives.

Gatwick Airport

48. The appeal site is on land safeguarded for a possible additional runway and associated works at Gatwick airport under the Gatwick Airport Master Plan (2019) (GAMP). Paragraph 5.9 of the Aviation Policy Framework (2013) (the APF) sets out an objective to safeguard land outside existing airports that may be required for future airport development. Paragraph 106e) and f) of the Framework recognise the importance of making provision for large scale transport facilities and maintaining a national network of general aviation airfields, and their need to adapt and change over time taking into account their economic value, leisure, training and emergency service needs, and the Government's General Aviation Strategy.
49. While the land is recognised in the policy map for the HDPF, there is no specific policy to protect it. As guidance, the Council refers me to Policy GAT2 in the Crawley Local Plan (2015), in which part of the wider safeguarded area is located. Its supporting text defines incompatible development as that which would add constraints or increase the costs or complexity to the development or operation of an additional runway. There is nothing before me to suggest this is not an appropriate definition for the purposes of my assessment.
50. Gatwick Airport Limited (GAL) stated in June 2019 they were not actively pursuing an additional runway to the south of Gatwick at that time but maintained an objection to the current proposal in February 2020. Safeguarding of land would preserve the option of building an additional runway to meet the future airport capacity gap that the Government's forecasts indicate will occur beyond 2030. The appellant informs me the airport lost out to a bid by Heathrow Airport to obtain government approval for an additional runway and the Airports National Policy Statement (2018) (the ANPS) strongly supports a third runway at Heathrow.
51. The appellant cites the effects of the pandemic referred to by an airport spokesperson³, suggesting it might take 4 – 5 years to return to pre-pandemic levels of travel. They also inform me it is CBC's position in their draft local plan that there is not robust evidence to continue the safeguarding of land for a further runway, and the GAMP suggests one scenario is continuing to safeguard land for an additional runway to increase capacity, but the latter of these scenarios is not being pursued by GAL at this time.
52. It is not clear whether the 4 – 5 year projection for passenger numbers to recover is being borne out. There is little evidence to substantiate, with certainty a new runway is unlikely in the next 15 – 20 years. These matters would also be the subject of a variety of economic and social variables. Neither party has provided up-to-date substantive evidence to demonstrate what I could consider to be a certain and current position with respect to a runway.
53. The Council's suggested planning conditions would limit the development to 5 years from the date of any decision, and the appellant has not expressed an

³ BBC News – Coronavirus: Gatwick Airport' will take five years to recover' (<https://www.bbc.co.uk/news/uk-england-sussex-53943633> 28 August 2020).

objection to this. Even if such a limitation were imposed, the appeal site and immediate surroundings might well be required for preliminary, investigative works or environmental monitoring works well in advance of any application for consent for a new runway. The appeal proposal could alter or complicate such work. Given the uncertainties around the timing of any application and advance works if needed, it has not been demonstrated the proposed development would not add constraints or increase the costs or complexity of providing a new runway. Therefore, notwithstanding the intended temporary duration of the operation, it is considered incompatible with the future expansion of Gatwick Airport as currently set out in policy.

54. For the reasons set out above, it is not demonstrated the proposal would not adversely affect any future expansion of Gatwick Airport. It would conflict with paragraphs 5.8 – 5.9 of the APF insofar as these seek to ensure safeguarded land is protected from incompatible development. While the Council has concluded the proposal conflicts with the Aviation White Paper (2003), it is my understanding this reference is to The Future of Air Transport (2003) White Paper which is withdrawn. Therefore, I have not concluded against it.

Highways

55. Policy W3(b)(iv) of the WLP requires that sites are well-related to the LRN and Policy W18(c)(i) that materials are capable of being transported using the LRN with minimal use of local roads, unless special justification can be shown. They do not define what is 'minimal' or 'well-related', so it is a matter for the decision maker to determine based upon the circumstances. The Council does not express a specific objection to the distance to the LRN, suggesting the objection is primarily in relation to highway suitability and safety.
56. The number and nature of total vehicle movements currently generated by the appeal site are not clear. It is put to me the proposal would be likely to reduce the number of overall vehicle movements, but it is not detailed how this conclusion is reached. From what I saw and the evidence before me, it would appear highly likely the proposal would result in a marked increase in HGV movements.
57. I have not been provided with a planning obligation to secure the routing of approximately 30-inbound and 30-outbound daily vehicle movements to and from the east as sought by the Council and the appellant has not stated they would be willing to accept one. Were this to be agreed, it may complicate or result in an elongated route given the stated intention of vehicles to return to the Burlands Farm premises to the west at the end of each day⁴.
58. The nearest part of the LRN is the A23 approximately 2km south-east of the site. To access it HGVs would need to use Charlwood Road which is a 'C' Class local distributor road before reaching Ifield Avenue. The Highway Authority (HA) does not appear to raise any significant concerns over the use of Ifield Avenue given its general alignment, width, capacity and infrastructure for non-motorised users. Notwithstanding the Council's concerns, I see no substantive reason it could not be used safely by new site traffic.
59. However, the HA expresses significant concerns about the suitability of Charlwood Road in the vicinity of the appeal site. It has a relatively rural

⁴ Paragraph 4.2 of the Planning Statement by WS Planning & Architecture (Ref. J002999).

character, no footways, a limited carriageway and verge widths with clear evidence of overrunning, and little vulnerable user infrastructure. ATC data suggests regular cycle use and the Council informs me it is used by equestrians and walkers to access the wider rights of way network.

60. In the vicinity of the appeal site, the Charlwood Road was the subject of seven accidents between 2013 – 2018⁵ and the Highway Authority (HA) has explained there have been three others in the area since the data was interrogated for the Road Safety Audit (RSA). An Inspector for a previous 2014 appeal proposal at Burlands⁶ Farm that included further HGV movements (10-in, 10-out) was of the view the route to the A23 was poor, had an absence of facilities for vulnerable road users, a poor accident record, and was not well-related to the LRN at that time.
61. While this proposal is closer to the A23 than the 2014 proposal, HGVs would utilise the same stretch of road. Both that Inspector and the HA share the view the number of accidents is disproportionately high regardless of no design deficiencies having been identified. For these reasons, the HA is of the view the effect of the proposed development upon the road network would be severe. I see no substantive reason why the concerns of the HA should not be given significant weight. While the appellant's evidence explains the accidents, there is little further analysis of the carriageway undertaken to overcome the concerns raised.
62. The appellant suggests the proposed number of movements is similar to that previously accessing Kilmarnock Farm between 1999 – 2012 for various infilling and land drainage works. I am informed they utilised the appeal access, and there were no associated accidents. The HA confirms there was a single incident in 2003 involving one of the appellant's HGVs, though that HGV driver was not at fault. However, based upon the evidence before me, suggests those proposals generated fewer overall movements over less sustained periods and given they were some time ago, I cannot be certain the amount and nature of traffic using Charlwood Road is similar to the present day.
63. The HA judged, for a proposal at Red Gables⁷, that just over a quarter of the number of vehicle movements proposed in this appeal scheme, would not lead to a severe impact. So the circumstances and effects are not the same and do not justify allowing this appeal. An Inspector's finding in respect⁸ of the site having easy access to the strategic road network around Crawley, when considering the use of land for car valeting is also noted. However, this was in the context of a scheme that would primarily generate car movements.
64. I am informed that a similar number of HGVs presently utilise this stretch of road to access Burlands Farm. However, even were that to be the case, there is no explanation that would lead me to conclude other than that the proposal is likely to significantly increase HGV movements on a section of road with a number of recorded accidents. Such is the width, alignment and lack of vulnerable user infrastructure, based upon the evidence before me, the use by a significant number of additional HGVs would be detrimental to highway safety. Therefore, the nature of the highway to access the LRN, means I

⁵ Appendix C (Collision report 01/09/2013 – 31/08/2018) of Transport Statement dated 22/11/2019.

⁶ Appeal Ref. APP/P3800/A/14/2227993.

⁷ Highway Authority response dated 08/08/2018 to application Ref. DC/18/1455.

⁸ Appeal Ref. APP/Z3825/W/15/3004320.

cannot regard the site as being well-related to the LRN. The number and route of vehicle movements proposed, suggests the use of local roads cannot be considered minimal and I do not consider special justification has been shown.

65. The appellant's RSA recommends a telegraph pole be relocated from the west of the access as it is an obstruction to visibility. While the RSA is of the view the impact is limited, it would be close to where drivers would be emerging, causing obstruction to their line-of-sight. Given its proximity to emerging vehicles, the effect upon visibility and upon the path of HGVs entering from the west, I am of the view it would be prejudicial to highway safety.
66. It is not disputed that the visibility splays should be 2.4m x 126m to the southeast and 2.4m x 97m to the northwest. The plans show the visibility splay cannot be achieved in a south easterly direction within land within the landowner's control or the public highway. However, the appellant is of the view they could obtain the necessary landowner's agreement to achieve the visibility splay. In respect of the telegraph pole and splays, the Council's condition to require clear specified splays are provided, would remedy these matters. However, this does not mitigate or overcome my other concerns.
67. For the reasons set out above it is not demonstrated the proposal would be in a suitable location on the highway network, or that it could be accessed safely. Therefore, it would conflict with the aims of Policies W3, W4 and W18 of the WLP and Policy 40 of the HDPF. Amongst other things these require that proposals are well-related to the LRN, use of local roads is minimised, and that vehicle movements associated with the development will not have an adverse impact on the safety of all road users. It would also conflict with the aims of paragraphs 110 and 111 of the Framework, which have similar objectives.

Other Matters

68. Policy W1 of the WLP supports facilities on un-allocated sites where it is demonstrated there is a market need. I have not been provided with the figures of the latest Annual Monitoring Report (AMR), but I am informed the 2017/18 AMR identifies a continuing and increasing demand for such facilities as that proposed. I am advised the WLP contains a capacity requirement for 0.68m tonnes per year to 2031 for the transfer, recycling, and treatment of commercial and industrial waste and construction, demolition, and excavation waste.
69. It is understood the appellant's company are currently depositing waste at other operator's facilities although the tonnages, nature of facilities and locations of them is not clear. This proposal would create 75,000 tonnes of capacity per year of inert waste recycling for aggregates and soils for use in the local market close to the urban areas of Horsham and Crawley which is the appellant's primary market. It would reduce the appellant's carbon footprint and vehicle miles from the current arrangements.
70. The proposal would be consistent with the principle of net self-sufficiency for West Sussex, supported by Policy W1 and would drive waste up the hierarchy as sought by the WLP and National Planning Policy for Waste (2014) (the NPPW). There is no dispute the proposal gains support from Policy W1.
71. Some interested parties have concerns of the effect of the proposal upon the Ifield Conservation Area (the ICA) due to noise and HGV movements. I have

considered this having regard to my duties under section 72 of the of the Planning Listed Buildings and Conservation Areas Act 1990 (the LBCAA), and any potential effects upon the setting of the ICA. The ICA is centred around the historic village as a scattered rural settlement, taking in its hinterland and some later development along Langley Lane and Ifield Green.

72. The ICA derives its character, appearance and significance from its historic settlement form with its high-quality historic buildings such as the church, a public house and cottages, as well as and the more recent generously sized high-quality residential and other buildings set within maturely vegetated green spaces, mature trees and wider rural grassland areas. Its setting to the north and east includes and is characterised by residential development and fields off Ifield Green, Ifield Avenue and Charlwood Road. From what I saw, it is primarily the surrounding fields, mature hedgerows and tree belts within its setting that contribute most to its significance. I could not see any intervisibility between the ICA and appeal site. Like aircraft from the airport, traffic on some highways is audible from the eastern side of the ICA and so has some influence upon both its character and setting.
73. It is not suggested there would be further vehicle movements through the ICA from the proposal. The technical analysis in the NA, suggests the appeal site would not be likely to be audible, above the existing noise environment during the times of its operation, within the ICA or within much of its immediate setting. There would be further HGVs travelling along Ifield Avenue and Charlwood Road, in proximity to parts of the eastern extent of the ICA. However, having regard to the number and duration of these, there would not be a significant overall increase in noise from them.
74. Based upon the evidence before me, I consider that the proposed development would not result in overall harmful effects upon the character, appearance and significance of the ICA and its setting. Therefore, it would preserve the character of the ICA and the contribution of its setting to its significance. In consequence, this would be a neutral matter.

Planning Balance

75. The Council does not appear to dispute that the proposed development would result in efficiencies in the management of waste and reducing carbon, in compliance with WLP objectives and targets. The WLP highlights that private new facilities are essential for a more sustainable approach to dealing with waste in the County. I give the sustainable waste management benefits of providing further waste recycling capacity of this magnitude in close proximity to two large urban areas, significant weight.
76. The proposed development would result in significant temporary economic benefits from construction and restoration, and once completed there would be medium-term economic and social benefits through direct employment, the processing of waste arisings and the supply of recycled materials to the construction industry and the associated benefits that brings.
77. The appeal site appears to have a very limited ecological value at the present time. Notwithstanding the temporary life of the facility, subject to the imposition of suitably worded planning conditions, it is possible the proposed development could secure an overall biodiversity benefit. Having regard to the indicative planting proposals before me and the extent of the appeal site, this

would be likely to be a modest benefit. It is not demonstrated the proposed development could and would achieve a net landscape benefit, so I consider this would be more of a neutral matter.

78. It is not disputed several sites in the area are unsuitable. However, the extent of any wider search exercise is not fully clear, and I cannot conclude all potential other sites are exhausted. Based upon the evidence before me, this is a matter that attracts limited weight in favour of the proposal. The appellant's appeal statement refers to the implications of an on-going enforcement appeal⁹ for their pre-existing operations in 2021. However, the status of this is not clear. Nonetheless, overall, the benefits of the development attract significant weight in favour of the scheme.
79. Were I to agree the proposed development would be, or with the imposition of suitably worded planning conditions, could be made compliant with policies in respect of matters such as lighting, construction management, access and parking standards, arboricultural matters, drainage, design of buildings and structures, dust suppression, wheel cleansing, noise mitigation, and heritage assets, these would be neutral matters in the planning balance.
80. I have found the proposal would be harmful to the character and appearance of the countryside, it has not been demonstrated the proposal would be compliant with policies for flood risk or the future expansion of Gatwick Airport. It is not demonstrated it would secure satisfactory living conditions to nearby occupiers, would not harmfully affect the enjoyment of a public right of way, or can be considered in a suitable location on the highway network and accessed safely. Therefore, I cannot regard it as being a suitable previously developed site, as required by Policy W3 of the WLP. In combination, these are matters that attract significant weight against the scheme. These are such that in combination they outweigh the benefits of the proposal.
81. Moreover, Regulation 63(5) of the 2017 Habitats Regulations states that the competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the European site. Therefore, the appeal cannot be allowed.

Conclusion

82. The proposed development would be contrary to the development plan and the National Planning Policy Framework read as a whole, and there are no considerations advanced, including the policies of the Framework and the NPPW, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR

⁹ APP/P3800/C/20/3247574.